

IN THE IOWA DISTRICT COURT FOR OSCEOLA COUNTY

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STATE OF IOWA, ex rel., IOWA	)	LAW NO. <u>EQCV019998</u>
DEPARTMENT OF NATURAL	)	
RESOURCES (99AG23542),	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	<b>PETITION IN EQUITY</b>
SUNRISE FARMS, INC.,	)	
	)	
Defendant.	)	

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COMES NOW Plaintiff State of Iowa, ex rel., Iowa Department of Natural Resources (“IDNR”) and for its claim against Defendant Sunrise Farms, Inc. (“Sunrise Farms”), states as follows:

**Introduction**

1. The State of Iowa seeks the assessment of civil penalties and injunctive relief against Defendant Sunrise Farms for discharging wastewater into a water of the State in violation of Iowa’s water quality rules and Sunrise Farms’ Operation Permit for a Wastewater Disposal System (“Operation Permit”), resulting in a large fish kill; violating its operation permit by operating a wastewater disposal system contrary to the Permit’s conditions; and constructing two buildings at the Sunrise Farms P5 facility without first obtaining the proper construction permits.

**Parties**

2. The State of Iowa is a sovereign state of the United States of America.
3. The Iowa Department of Natural Resources (“IDNR”) is a duly constituted agency of the State of Iowa pursuant to Iowa Code section 455A.2.
4. Defendant Sunrise Farms is a corporation organized under the laws of Iowa, with

its principal place of business at 2060 White Ave, Harris, Iowa, 51345.

### **Definitions**

5. “Animal feeding operation structure” means “a confinement building, manure storage structure, dry bedded confinement feeding operation structure as defined in section 459B.102, or egg washwater storage structure.” Iowa Code § 459.102(5).

6. “Animal unit” means “a unit of measurement based upon the product of multiplying the number of animals of each category by a special equivalency factor as follows:

...

(j) Chickens weighing forty-eight ounces [three pounds] or more [=] 0.010;

(k) Chickens weighing forty-eight ounces [3 pounds] or less [=] 0.0025.”

Iowa Code § 459.102(6)(j) and (k).

7. “Confinement feeding operation” means “an animal feeding operation in which animals are confined to areas which are totally roofed.” Iowa Code § 459.102(14).

8. “Confinement feeding operation building” or “confinement building” means “a building used in conjunction with a confinement feeding operation to house animals.” Iowa Code § 459.102(15).

9. “Confinement feeding operation structure” means “an animal feeding operation structure that is part of a confinement feeding operation.” Iowa Code § 459.102(16).

10. “Construction permit” means “written approval of the department to construct, modify or alter the use of an animal feeding operation structure as provided in subrule 65.7(1).” 567 Iowa Admin. Code 65.1.

11. “Disposal system” means “a system for disposing of sewage, industrial waste, or other wastes, or for the use or disposal of sewage sludge ....” including “sewer systems,

treatment works, point sources, dispersal systems, and any systems designed for the usage or disposal of sewage sludge.” Iowa Code § 455B.171(5).

12. “Effluent standard” means “any restriction or prohibition on quantities, rates, and concentrations of chemical, physical, biological, radiological, and other constituents, which are discharged from point sources into any water of the State including an effluent limitation, a water quality related effluent limitation, a standard of performance for a new source, a toxic effluent standard, or other limitation.” Iowa Code § 455B.171(6).

13. “Hazardous condition” means “any situation involving the actual, imminent, or probable spillage, leakage, or release of a hazardous substance onto the land, into a water of the state, or into the atmosphere, which creates an immediate or potential danger to the public health or safety or to the environment.” Iowa Code § 455B.381(4).

14. “Hazardous substance” means “any substance or mixture of substances that presents a danger to the public health or safety and includes but is not limited to a substance that is toxic, corrosive, or flammable, or that is an irritant or that generates pressure through decomposition, heat, or other means.” Iowa Code § 455B.381(5).

15. “Point source” means “any discernable, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit . . . from which pollutants are or may be discharged.” Iowa Code § 455B.171(19).

16. “Pollutant” means “sewage, industrial waste, or other waste.” Iowa Code § 455B.171(20).

17. “Treatment works” means “any plant, disposal field, lagoon, holding or flow-regulating basin, pumping station, or other works installed for the purpose of treating, stabilizing, or disposing of sewage, industrial waste, or other wastes.” Iowa Code § 455B.171(37).

18. “Water of the State” means “any stream, lake, pond, marsh, watercourse, waterway, well, spring, reservoir, aquifer, irrigation system, drainage system, and any other body or accumulation of water, surface or underground, natural or artificial, public or private, which are contained within, flow through or border upon the state or any portion thereof.” Iowa Code § 455B.171(39).

19. “Water pollution” means “the contamination or alteration of the physical, chemical, biological, or radiological integrity of any water of the State by a source resulting in whole or in part from the activities of humans, which is harmful, detrimental, or injurious to public health, safety, or welfare, to domestic, commercial, industrial, agricultural, or recreational use or to livestock, wild animals, birds, fish, or other aquatic life.” Iowa Code § 455B.171(40).

## **JURISDICTION**

### **Water Quality Regulations**

20. The IDNR is the agency of the state responsible for the prevention, abatement, or control of water pollution. Iowa Code § 455B.172(1). The IDNR maintains jurisdiction over and regulates the direct discharge of pollutants to a water of the State. Iowa Code § 455B.172(5).

21. The Iowa Environmental Protection Commission (EPC) has authority to establish water quality standards, pretreatment standards, and effluent standards; adopt rules relating to the location, construction, operation, maintenance, or modification of disposal systems, or for the discharge of any pollutant; and inspection, monitoring, record keeping, and reporting requirements for owners and operators of disposal systems. Iowa Code §§ 455A.6(6)(a) and 455B.173(2), (3) and (6). The EPC’s rules implementing these provisions are contained in 567 Iowa Admin. Code 60–69.

22. The dumping, depositing, or discharging of pollutants into any water of the State is prohibited, except adequately treated sewage, industrial waste, or other waste in accordance with rules adopted by the EPC. Iowa Code § 455B.186(1).

23. The discharge of any pollutant from a point source into a navigable water is prohibited unless authorized by an NPDES permit. 567 Iowa Admin. Code 62.1(1).

24. No person shall operate any wastewater disposal system or part thereof without, or contrary to any condition of, an operation permit issued by the IDNR. 567 Iowa Admin. Code 64.3(1).

25. All Iowa surface waters are to be free from materials attributable to wastewater discharges or agricultural practices producing objectionable color, odor or other aesthetically objectionable conditions. 567 Iowa Admin. Code 61.3(2)“c”.

26. All Iowa surface waters are to be free from substances attributable to wastewater discharges or agricultural practices in concentrations or combinations which are acutely toxic to human, animal, or plant life. 567 Iowa Admin. Code 61.3(2)“d”.

27. A person manufacturing, storing, handling, transporting, or disposing of a hazardous substance shall notify the IDNR and local police department or the office of the sheriff of the affected county of the occurrence of a hazardous condition not later than six hours after the onset or discovery of the hazardous condition. A person violating this section is subject to a civil penalty of not more than One Thousand Dollars (\$1,000.00). Iowa Code § 455B.386.

28. A person who violates any provision of Iowa Code chapter 455B, Division III, Part 1 or any permit, rule, or order issued thereunder shall be subject to a civil penalty not to exceed Five Thousand Dollars (\$5,000.00) for each day of such violation. Iowa Code § 455B.191(2).

29. The Attorney General is authorized, at the request of the IDNR director with approval of the EPC, to initiate any legal proceedings, including an action for injunction or temporary injunction, necessary to enforce the penalty provisions of said statutes and any rules promulgated or any provision of any permit issued thereunder. Iowa Code § 455B.191(5).

**Hazardous Condition Regulations**

30. The IDNR shall be the agency of the State to prevent, abate, and control the exposure of the citizens of the State to hazardous conditions. Iowa Code § 455B.382.

31. The IDNR is authorized to establish such rules as are necessary to protect the public from unnecessary exposure to hazardous substances, and to develop comprehensive plans for the prevention, abatement and control of hazardous conditions within the state. Iowa Code §§ 455B.383(1)-(2).

32. A person manufacturing, storing, handling, transporting, or disposing of a hazardous substance shall notify the department and the local police department or the office of the sheriff of the affected county of the occurrence of a hazardous condition as soon as possible but not later than six hours after the onset of the hazardous condition or discovery of the hazardous condition. Iowa Code § 455B.386; 567 Iowa Admin. Code 131.2.

33. A person violating Iowa Code section 455B.386 shall be subject to a civil penalty of not more than One Thousand and no/100 Dollars (\$1,000.00). Iowa Code § 455B.386.

34. The Attorney General shall, at the request of the IDNR, institute any legal proceedings, including an action for an injunction or temporary injunction, necessary to obtain compliance with the provisions of this part 4 of division IV. Iowa Code § 455B.391(1).

**Construction Permit Regulations**

35. The EPC has the authority to establish rules relating to the construction,

expansion, or operation of animal feeding operations, including related animal feeding operation structures. Iowa Code § 459.103(1). These rules shall include, but are not limited to, minimum manure control, the issuance of permits, and departmental investigations, inspections, and testing. Iowa Code § 459.103(1). These rules are contained in 567 Iowa Admin. Code 65.

36. A person shall not begin construction of a confinement feeding operation structure requiring a permit under Iowa Code section 459.303 unless the IDNR first approves the person's application and issues to the person a construction permit. Iowa Code § 459.303(1); 567 Iowa Admin. Code 65.7.

37. A person must obtain a permit to construct a confinement feeding operation structure if after construction its confinement feeding operation would have an animal unit capacity of at least 1,000 animal units. Iowa Code § 459.303(1)(a)(1).

38. A confinement feeding operation shall obtain a construction permit prior to any of the following: constructing, installing or modifying a confinement building or a formed manure storage structure at a confinement feeding operation if, after construction, installation or expansion, the animal unit capacity of the operations is 1,000 animal units or more. 567 Iowa Admin. Code 65.7(1)(b)(2).

39. The department and the attorney general may enforce the provisions of subchapter III in the same manner as provided in section 455B.175. Iowa Code § 459.601(2)(b).

40. If there is substantial evidence that any person has violated or is violating any provision of part 1 of division III of chapter 455B, chapter 459, subchapter III, or chapter 459A, or any rule or standard established or permit issued pursuant thereto, the director may issue an order directing the person to desist in the practice which constitutes the violation or to take such corrective action as may be necessary to ensure that the violation will cease. Iowa Code §

455B.175(1).

41. The director, with the approval of the commission, may request the attorney general to institute legal proceedings pursuant to section 455B.191 or 459.604. Iowa Code § 455B.175(1)(c).

42. A person who violates subchapter III of chapter 459 shall be subject to a civil penalty which shall be established, assessed and collected in the same manner as provided in section 455B.191. Iowa Code § 459.603.

43. A person who violates any provision of Iowa Code chapter 455B, division III, part 1, or any permit, rule, standard, or order issued under chapter 455B, division III, part 1, shall be subject to a civil penalty not to exceed Five Thousand Dollars (\$5,000.00) for each day of such violation. Iowa Code § 455B.191(2).

44. The Attorney General is authorized, at the request of the IDNR director with approval of the EPC, to initiate any legal proceedings, including an action for injunction or temporary injunction, necessary to enforce the penalty provisions of said statutes and any rules promulgated or any provision of any permit issued thereunder. Iowa Code § 455B.191(5).

## **FACTS**

### **Wastewater Discharge Investigation of Egg Facility**

45. Defendant Sunrise Farms owns and operates four chicken confinement facilities in Osceola County, Iowa.

46. One of Sunrise Farms' four confinement facilities is the Egg Laying Facility ("Egg Facility"), a total confinement chicken laying facility located at 2060 White Ave, Harris, Iowa, 51345. The Egg Facility has twenty-three (23) confinement buildings with a capacity of 8,000,000 layer chickens averaging three pounds or more, or 80,000 animal units.



47. On August 1, 2014, the IDNR issued Operation Permit No. 7200802 to Sunrise Farms, a copy of which is attached, marked as Exhibit A and incorporated by reference. The Operation Permit (Exhibit A, p. 7) provides the following

wastewater from [the] [Egg Facility] is treated and held in a five-cell lagoon system prior to disposal by land application using center pivot irrigation onto approximately 519 acres [of adjacent land]. No discharge to a water of the State of Iowa from the industrial wastewater lagoons or land application sites is permitted.

48. The Operation Permit (Exhibit A, p. 7) requires that Sunrise Farms:

shall report to [the IDNR] any direct discharge of wastewater into a watercourse from the land application operations. Such notification shall be given by telephone call to [the IDNR] Spencer office (712-262-4177) within six (6) hours of the discharge occurrence. In addition, [Sunrise Farms] shall provide to [the IDNR] the following information, in writing, within five (5) days of such discharge:

- a) A description of the cause of the discharge;
- b) The period of the discharge, including the exact dates and time of the discharge. If the discharge has not ceased, notification shall include the anticipated duration of the discharge;
- c) The estimated volume of water that was discharged; and
- d) The steps being taken to reduce, eliminate, and prevent recurrence of the discharge.

49. On September 28, 2015, IDNR Field Office 3 received a complaint by an individual of a fish kill in Stony Creek near Everly, Clay County, Iowa.

50. On September 28, 2015, the IDNR began an investigation of the complaint. IDNR staff travelled to Stony Creek and observed hundreds of dead fish at the B14 and M27 Bridge in Waterford Township, Clay County and proceeded to work north to trace the fish kill. A second team of IDNR personnel worked southward from the Highway 18 Bridge, west of Spencer in Clay County, Iowa, to determine the extent of the kill, and they determined that the fish kill ended where Stony Creek joins with the Ocheyedon River.

51. IDNR staff observed dead fish at 16 locations along Stony Creek. Dead fish were

also observed in an unnamed tributary that enters Stony Creek from the west approximately 15 miles north of the Ocheyedan River. No dead fish were observed in Stony Creek upstream of the confluence of the unnamed tributary and Stony Creek, indicating that pollutants were entering Stony Creek from the unnamed tributary.

52. IDNR staff followed the unnamed tributary west to the point where it originated, a tile outlet. From the tile outlet, IDNR staff followed a grassed waterway northwest and came to the Egg Facility where they spoke with the Egg Facility manager, Terry Hudgens (“Hudgens”). Hudgens took them to an area east of the Egg Facility, where there were piles of clean wood chips utilized for High Path Avian Influenza (“HPAV”), also known as “bird flu”, composting piles. The soil near the wood chip piles was stained and smelled strongly like dead animals.

53. While IDNR staff was onsite, they observed a visible surface runoff flow path from the wood chip area going east into a cornfield. IDNR staff observed puddles of discolored water in the cornfield. IDNR staff took samples of the discolored water in the cornfield, and the lab results for one of those samples later showed an ammonia concentration of 1,400 milligrams per liter (“mg/L”). Water with an ammonia concentration of more than 3.0 mg/L can be toxic to aquatic wildlife.

54. On September 29<sup>th</sup>, 2015, IDNR staff returned to the Egg Facility. IDNR staff noted pools of stagnant water, which the staff had missed the previous day, in the tall grass near the tile outlet that discharged into the unnamed tributary. The pools were darkly colored, odorous, and contained fish that had been dead for quite some time. A lab sample of this water later showed an ammonia concentration of 270 mg/L.

55. IDNR staff asked Hudgens about what was released into the cornfield to the east of the Egg Facility. He stated it had been more than a year since the facility had irrigated

wastewater on fields to the east of the facility, which would drain towards the unnamed tributary. Irrigation was then ruled out as a source for the discharge.

56. IDNR staff also asked Hudgens about two small red flags which had been placed at the edge of the cornfield, and Hudgens responded that the flags were there to mark woodchip piles. IDNR staff noted that the soil around the flags had a rotten odor and egg shells could be seen along a flow path leading to the cornfield. IDNR staff believed wastewater had been dumped at this spot.

57. On October 1, 2015, IDNR staff spoke with Hudgens by phone. Hudgens stated Sunrise Farms had dumped a tank<sup>1</sup> of wastewater in the cornfield, which consisted of a mix of egg wash water, egg shells, soap, acid rinse, and some manure from the eggs. Chemicals in the wastewater included Antifoam 10, Questar CAF, AC-55-5 RED, AC-103, Questar ACC-NF, Antifoam MG, Oxonia Active, Hydrogen Peroxide 35%, Hydrochloric Acid 20 Be, Mandate Plus, XY-12, and Foam-Shine.

58. Hudgens further stated that the tank of wastewater that was dumped had not been added to for approximately six months, and that he believed one truckload of approximately 1,500 gallons of wastewater was dumped from the tank three weeks previously. IDNR staff advised Hudgens that they believed much more than 1,500 gallons had been dumped and that he needed to figure out the real amount.

59. On October 6, 2015, IDNR staff returned to the Egg Facility. At that time, Hudgens stated he did not know the exact date of dumping or the exact amount of wastewater that had been dumped, but after speaking with his employees, he learned that it could have been as much as twelve truckloads of the tank's wastewater, which at 1,500 gallons per truck, resulted

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<sup>1</sup> The tank that Hudgens referenced was a septic tank used for storing egg wash water before the water is pumped to the wastewater lagoons onsite.

in a significant amount of wastewater dumped.

60. Through its investigation, the IDNR concluded that Sunrise Farms used trucks to dump wastewater from the wastewater tank to an area near the cornfield east of the Egg Facility. The wastewater flowed east into the cornfield and seeped into the tile system, eventually discharging into the unnamed tributary of Stony Creek, resulting in a substantial fish kill.

61. The IDNR's Fisheries Bureau ("Bureau") conducted a fish kill investigation as a result of Sunrise Farm's discharge of wastewater into the unnamed tributary, and eventually into Stony Creek. The Bureau concluded that 163,001 fish were killed over an 18.2 mile stretch of Stony Creek and its unnamed tributary. The estimated value of the killed fish was \$25,806.30. The IDNR's fish kill investigation costs totaled \$903.26. On November 23, 2015, Sunrise Farms made a payment to the IDNR, totaling \$26,709.56, in restitution for the fish killed and the IDNR's investigation costs.

#### **Construction Permit Investigation of P5 Facility**

62. Sunrise Farms' P5 Facility ("P5 Facility") is a chicken poultry confinement facility located at 5576 220<sup>th</sup> Street, Sibley, Iowa, 51249. The facility has four confinement buildings with the animal capacity of 520,000 chickens less than three pounds, or 1,300 animal units.

63. On October 21, 2010, Defendant Sunrise Farms submitted the necessary documents and fees to begin construction of the pads for two confinement buildings at the P5 Facility with the construction of the buildings and concrete floor to begin the following spring. The two new buildings would house 260,000 chickens weighing three pounds or less, or 650 animal units. Since the buildings were to house less than 1,000 animal units, they did not require permits under Iowa Admin. Code 65.7(1)(b)(2).

64. On October 27, 2010, the IDNR sent Sunrise Farms a letter granting permission to construct the two buildings as an unpermitted facility. The construction could begin no earlier than November 21, 2010, and if construction had not begun by October 21, 2011, Sunrise Farms would have to submit new construction documents.

65. On April 12, 2011, Sunrise Farms submitted new documents stating that construction would start in the spring of 2011. The new documents indicated that Sunrise Farms now wanted to construct four buildings housing a total of 1,300 animal units.

66. On April 13, 2011, IDNR staff contacted Sunrise Farms and gave it two options. Sunrise Farms could either construct the original two buildings and submit the permits for the two additional buildings after the completion of the original buildings, or it could submit construction permits for all four buildings and wait to receive the permits for all four prior to beginning construction. Sunrise Farms elected to start constructing the original two buildings and submit applications for permits for the other two buildings after the 120 day waiting period.

67. In February 2015, IDNR staff conducted desktop aerial searches for unknown facilities and noted that the P5 facility had four confinement buildings instead of two. IDNR staff contacted Sunrise Farms and was informed that the other two buildings had been constructed, but no birds had been placed in them. IDNR staff informed Sunrise Farms that they could not populate the buildings until a construction permit application was submitted and the permit issued. IDNR staff also told Sunrise Farms that it would receive a Notice of Violation and would likely have a monetary penalty assessed for construction to two additional buildings without a permit.

68. On February 17, 2015, the IDNR received Sunrise Farms' construction permit application for the two buildings at the P5 Facility. Thereafter, IDNR staff visited the P5 facility

to conduct a site survey and determined that the site met all the required separation distances and verified that no birds had been placed in the buildings.

69. On April 16, 2015, the IDNR issued an “as built” Construction Permit CP-A2015-027 ("Construction Permit") for the two additional buildings. The Construction Permit approved as built construction of two poultry confinement barns and allowed birds to be placed in the confinement buildings.

70. Enforcement of the construction permit violations was delayed due to IDNR efforts to assist with the outbreak of HPAV, which took place shortly after the February site survey.

71. On January 4, 2016, the IDNR issued a Notice of Violation to Sunrise Farms for failing to obtain a construction permit prior to the construction of the third and fourth buildings at the P5 facility.

## **VIOLATIONS**

### **Water Quality Violations**

72. In approximately September 2015, the Defendant used trucks to dump as much as twelve truckloads of egg wash wastewater from the Egg Facility, each with a capacity of 1,500 gallons, in a field which led to the discharge of the wastewater into a water of the State in violation of Iowa Code section 455B.186(1), 567 Iowa Admin. Code 62.1(1) and Operation Permit No. 7200802.

73. In approximately September 2015, the Defendant used trucks to dump as much as twelve truckloads of egg wash wastewater from the Egg Facility, each with a capacity of 1,500 gallons, in a field which led to the discharge of the wastewater into a water of the State and produced objectionable color, odor, or other aesthetically objectionable conditions to surface

waters and that was acutely toxic to human, animal or plant life in violation of 567 Iowa Admin. Code 61.3(2)“c” and “d”.

74. In approximately September 2015, the Defendant operated its wastewater disposal system or part thereof contrary to the conditions of its Operation Permit when the Defendant bypassed its wastewater lagoons and directly dumped twelve truckloads of egg wash wastewater from the Egg Facility, each with a capacity of 1,500 gallons, in a field in violation of 567 Iowa Admin. Code 64.3(1) and Operation Permit No. 7200802.

75. In approximately September 2015, the Defendant failed to report to the DNR the direct discharge of wastewater into a watercourse from any land application at the Egg Facility within six (6) hours of the discharge occurrence and failed to provide the DNR with a written report detailing the discharge and related information within five (5) days of such discharge in violation of 567 Iowa Admin. Code 64.3(1) and NPDES Permit No. 7200802.

#### **Hazardous Conditions Violation**

76. In approximately September 2015, the Defendant failed to notify the IDNR of the occurrence of a hazardous condition within six hours after the onset of the hazardous condition or discovery of the hazardous condition in violation of Iowa Code section 455B.386 and 567 Iowa Admin. Code 131.2

#### **Construction Permit Violations**

77. The Defendant failed to obtain a construction permit prior to constructing or installing two separate confinement buildings at a confinement feeding operation when, after construction or installation, the animal unit capacity of the operations would be 1,000 animal units or more in violation of Iowa Code section 459.303(1)(a)(1) and 567 Iowa Admin. Code 65.7(1)(b)(2).

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff State of Iowa, ex rel., Iowa Department of Natural Resources requests that the Court:

- a. assess a civil penalty against Defendant Sunrise Farms, pursuant to Iowa Code sections 455B.191(2) and 459.603 for violations of Iowa Code sections 455B.186(1), 459.303(1)(a)(1), 567 Iowa Admin. Code 61.3(2)“c”-“d”, 62.1(1), 64.3(1), and 65.7(1)(b)(2), and Operation Permit No. 7200802, not to exceed Five Thousand Dollars (\$5,000.00) per day, per violation, for each day of such violation;
- b. issue a permanent injunction, pursuant to Iowa Code sections 455B.191(5) and 459.603, enjoining Defendant Sunrise Farms from any violation of Iowa Code sections 455B.186(1) and 459.303(1)(a)(1), 567 Iowa Admin. Code 61.3(2)“c”-“d”, 62.1(1), 64.3(1), and 65.7(1)(b)(2), and Operation Permit No. 7200802;
- c. assess a civil penalty against Defendant Sunrise Farms, pursuant to Iowa Code section 455B.386 for each occurrence of violation of Iowa Code section 455B.386 and 567 Iowa Admin. Code 131.2, not to exceed One Thousand Dollars (\$1,000.00); and
- d. issue a permanent injunction, pursuant to Iowa Code section 455B.391(1), enjoining Defendant Sunrise Farms from any violation of Iowa Code section 455B.386 and 567 Iowa Admin. Code 131.2.

Plaintiff further requests that the Court tax the costs of this action to the Defendant Sunrise Farms and provide such other relief as the Court may deem just and proper.



Respectfully submitted,

THOMAS J. MILLER  
Attorney General of Iowa

/s/ Jacob J. Larson  
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DEPARTMENT OF NATURAL  
RESOURCES



## STATE OF IOWA

TERRY E. BRANSTAD, GOVERNOR  
KIM REYNOLDS, LT. GOVERNOR

DEPARTMENT OF NATURAL RESOURCES  
CHUCK GIPP, DIRECTOR

STATE OF IOWA  
DEPARTMENT OF NATURAL RESOURCES  
ENVIRONMENTAL PROGRAM  
AMENDMENT TO STATE OPERATION PERMIT

Iowa State Operation Permit #	7200802
Date of Issuance:	August 1, 2014
Date of Expiration:	July 31, 2019
Date of this Amendment:	<u>January 21, 2015</u>
EPA NUMBER:	IA0079596

**Name and Mailing Address of Applicant:**

Sunrise Farms  
2060 White Ave  
Harris, IA 51345

**Identity and Location of Facility:**

Sunrise Farms  
Township 99N, Range 39W, Section 34, Osceola County

Pursuant to the authority Iowa Code Section 455B.174, and of Rule 567-64.3, Iowa Administrative Code, the Director of the Iowa Department of Natural Resources has issued the above referenced permit. Pursuant to the same authority, the Director hereby amends said permit as set forth below:

The State Operation Permit is being amended to remove redundant monitoring requirements. Please remove pages 4-10 from the permit and replace it with the enclosed pages 4-9.

For the Department of Natural Resources:

By \_\_\_\_\_  
David Schelling  
NPDES Section

ENVIRONMENTAL SERVICES DIVISION

**IOWA DEPARTMENT OF NATURAL RESOURCES**  
**Operation Permit for a Wastewater Disposal System**

**PERMITTEE:**

Sunrise Farms  
2060 White Ave.  
Harris, IA 51345

**IDENTITY AND LOCATION OF FACILITY:**

Sunrise Farms  
2060 White Ave.  
Harris, IA 51345

Section 34, T99N, R39W  
Osceola County, Iowa

**OPERATION PERMIT NUMBER: 7200802**

**DISCHARGE PROHIBITED**

No sewage, industrial waste or other waste shall be discharged into waters of the United States from the five cell waste stabilization lagoon facility.

**DATE OF ISSUANCE: 8/1/2014**

**DATE OF EXPIRATION: 7/31/2019**

**YOU ARE REQUIRED TO FILE FOR RENEWAL  
OF THIS PERMIT BY: 2/1/2019**

This permit is issued pursuant to the authority of Iowa Code section 455B.174 and rule 567--64.3, Iowa Administrative Code. You are authorized to operate the disposal system in accordance with the terms set forth in this permit.

You may appeal any condition of this permit by filing a written notice of appeal and request for administrative hearing with the director of this department within 30 days of your receipt of this permit.

Any existing unexpired Iowa operation or NPDES permit previously issued by the department for the facility identified above is revoked by the issuance of this Iowa operation permit. This provision does not apply to any authorization to discharge under the terms and conditions of a general permit issued by the department or to any permit issued exclusively for the discharge of stormwater.

**DESCRIPTION**

Wastewater from an egg breaking operation is stored in a five cell waste storage lagoon system (two cells are aerated) until it can be disposed of by land application on adjacent land. No human sanitary wastes are to be discharged to the land application system. Discharge of wastewater to surface water is prohibited.

**FOR THE DEPARTMENT OF NATURAL RESOURCES**

By \_\_\_\_\_  
David Schelling, Environmental Specialist  
NPDES Section  
ENVIRONMENTAL SERVICES DIVISION

**Facility Name:** Sunrise Farms

**Permit Number:** 7200802

**Outfall No.:** 001 LAND APPLICATION OF WASTEWATER FROM A EGG BREAKING PROCESS OPERATION

**Receiving Stream:** NONE - LAND APPLICATION

**Route of Flow:**

**Outfall No.:** 002 Land application Area B -- approximately 246 acres in Osceola County centered in the SE 1/4 of Section 27, T99N, R39W.

**Receiving Stream:** NONE - LAND APPLICATION

**Route of Flow:**

**Outfall No.:** 003 Land application Area C -- approximately 125 acres in Osceola County located in the SE 1/4 of Section 33, T99N, R39W.

**Receiving Stream:** NONE - LAND APPLICATION

**Route of Flow:**

**Outfall No.:** 004 Land application Area D -- approximately 146 acres in Osceola County located in the NE 1/4 of Section 33, T99N, R39W.

**Receiving Stream:** NONE - LAND APPLICATION

**Route of Flow:**

**Bypasses from any portion of a treatment facility or from a sanitary sewer collection system designed to carry only sewage are prohibited.**

**Facility Name:** Sunrise Farms  
**Permit Number:** 7200802

### **Monitoring and Reporting Requirements**

- (a) Samples and measurements taken shall be representative of the volume and nature of the monitored wastewater.
- (b) Analytical and sampling methods specified in 40 CFR Part 136 or other methods approved in writing by the department shall be utilized. Samples collected for operational testing need not be analyzed by approved analytical methods; however, commonly accepted test methods should be used.
- (c) You are required to report all data including calculated results needed to determine compliance with the limitations contained in this permit. The results of any monitoring not specified in this permit performed at the compliance monitoring point and analyzed according to 40 CFR Part 136 shall be included in the calculation and reporting of any data submitted in accordance with this permit. This includes daily maximums and minimums and 30-day and 7-day averages for all parameters that have concentration (mg/l) and mass (lbs/day) limits. In addition, flow data shall be reported in million gallons per day (MGD).
- (d) Results of all monitoring shall be recorded on forms provided by, or approved by, the department, and shall be submitted to the appropriate regional field office of the department by the fifteenth day following the close of the reporting period. Your reporting period is on a MONTHLY basis, ending on the last day of each reporting period.
- (e) Any records of monitoring activities and results shall include for all samples: the date, exact place and time of the sampling; the dates the analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses.
- (f) Chapter 63 of the Iowa Administrative Code contains further explanation of these monitoring requirements.

Facility Name: Sunrise Farms  
 Permit Number: 7200802

Outfall	Wastewater Parameter	Sample Frequency	Sample Type	Monitoring Location
The following monitoring requirements shall be in effect from 08/01/2014 to 07/31/2019				
001	BIOCHEMICAL OXYGEN DEMAND (BOD5)	1 TIME PER WEEK	24 HOUR COMPOSITE	RAW WASTEWATER TO THE LA SYSTEM
001	FLOW TO LAGOON	7/WEEK OR DAILY	24 HOUR TOTAL	RAW WASTEWATER TO THE LA SYSTEM
001	NITROGEN, TOTAL (AS N)	1 EVERY MONTH	24 HOUR COMPOSITE	RAW WASTEWATER TO THE LA SYSTEM
001	CELL DEPTH	2 TIMES PER WEEK	MEASUREMENT	CELL 3 CONTENTS
001	CELL DEPTH	2 TIMES PER WEEK	MEASUREMENT	CELL 2 CONTENTS
001	CELL DEPTH	2 TIMES PER WEEK	MEASUREMENT	CELL 1 CONTENTS
002	NITROGEN, TOTAL (AS N)	1 EVERY 3 MONTHS	24 HOUR COMPOSITE	WASTEWATER FROM THE FINA CELL PRIOR TO LAND APPLIC. AREA B DURING PERIODS OF IR
002	PHOSPHORUS, TOTAL (AS P)	1 EVERY 3 MONTHS	24 HOUR COMPOSITE	WASTEWATER FROM THE FINA CELL PRIOR TO LAND APPLIC. AREA B DURING PERIODS OF IR
002	COLIFORM, FECAL	1 EVERY 3 MONTHS	GRAB	MONITORING WELL #7 LAND AREA B
002	NITRATE NITROGEN (AS N)	1 EVERY 3 MONTHS	GRAB	MONITORING WELL #7 LAND AREA B
002	SOLIDS, TOTAL DISSOLVED	1 EVERY 3 MONTHS	GRAB	MONITORING WELL #7 LAND AREA B
002	COLIFORM, FECAL	1 EVERY 3 MONTHS	GRAB	MONITORING WELL #6 LAND AREA B
002	NITRATE NITROGEN (AS N)	1 EVERY 3 MONTHS	GRAB	MONITORING WELL #6 LAND AREA B

Facility Name: Sunrise Farms

Permit Number: 7200802

Outfall	Wastewater Parameter	Sample Frequency	Sample Type	Monitoring Location
The following monitoring requirements shall be in effect from 08/01/2014 to 07/31/2019				
002	NITRATE NITROGEN (AS N)	1 EVERY 3 MONTHS	GRAB	MONITORING WELL #5 LAND AREA B
002	SOLIDS, TOTAL DISSOLVED	1 EVERY 3 MONTHS	GRAB	MONITORING WELL #5 LAND AREA B
002	FLOW (VOLUME LAND APPLIED)	7/WEEK OR DAILY	24 HOUR TOTAL	WASTEWATER APPLIED TO IRRIGATION AREA B
002	NITROGEN, TOTAL (AS N)	7/WEEK OR DAILY	CALCULATED	YEAR TO DATE TOTAL POUND APPLIED TO IRRIGATION AREA B
003	NITROGEN, TOTAL (AS N)	1 EVERY 3 MONTHS	24 HOUR COMPOSITE	WASTEWATER FROM THE FINISH CELL PRIOR TO LAND APPLICATION DURING PERIODS OF IRRIGATION
003	PHOSPHORUS, TOTAL (AS P)	1 EVERY 3 MONTHS	24 HOUR COMPOSITE	WASTEWATER FROM THE FINISH CELL PRIOR TO LAND APPLICATION DURING PERIODS OF IRRIGATION
003	COLIFORM, FECAL	1 EVERY 3 MONTHS	GRAB	MONITORING WELL #13 LAND AREA C
003	NITRATE NITROGEN (AS N)	1 EVERY 3 MONTHS	GRAB	MONITORING WELL #13 LAND AREA C
003	SOLIDS, TOTAL DISSOLVED	1 EVERY 3 MONTHS	GRAB	MONITORING WELL #13 LAND AREA C
003	COLIFORM, FECAL	1 EVERY 3 MONTHS	GRAB	MONITORING WELL #12 LAND AREA C
003	NITRATE NITROGEN (AS N)	1 EVERY 3 MONTHS	GRAB	MONITORING WELL #12 LAND AREA C
003	SOLIDS, TOTAL DISSOLVED	1 EVERY 3 MONTHS	GRAB	MONITORING WELL #12 LAND AREA C

Facility Name: Sunrise Farms

Permit Number: 7200802

Outfall	Wastewater Parameter	Sample Frequency	Sample Type	Monitoring Location
The following monitoring requirements shall be in effect from 08/01/2014 to 07/31/2019				
003	FLOW (VOLUME LAND APPLIED)	7/WEEK OR DAILY	24 HOUR TOTAL	WASTEWATER APPLIED TO IRRIGATION AREA C
003	NITROGEN, TOTAL (AS N)	7/WEEK OR DAILY	CALCULATED	YEAR TO DATE TOTAL POUNDS PER ACRE APPLIED TO IRRIGATION AREA C
004	NITROGEN, TOTAL (AS N)	1 EVERY 3 MONTHS	24 HOUR COMPOSITE	WASTEWATER FROM THE FINAL LAGOON CELL PRIOR TO LAND APPLICATION TO AREA D DURING PERIODS OF IRRIGATION
004	PHOSPHORUS, TOTAL (AS P)	1 EVERY 3 MONTHS	24 HOUR COMPOSITE	WASTEWATER FROM THE FINAL LAGOON CELL PRIOR TO LAND APPLICATION TO AREA D DURING PERIODS OF IRRIGATION
004	COLIFORM, FECAL	1 EVERY 3 MONTHS	GRAB	MONITORING WELL #9 LAND APPLICATION AREA D
004	NITRATE NITROGEN (AS N)	1 EVERY 3 MONTHS	GRAB	MONITORING WELL #9 LAND APPLICATION AREA D
004	SOLIDS, TOTAL DISSOLVED	1 EVERY 3 MONTHS	GRAB	MONITORING WELL #9 LAND APPLICATION AREA D
004	COLIFORM, FECAL	1 EVERY 3 MONTHS	GRAB	MONITORING WELL #8 LAND APPLICATION AREA D
004	NITRATE NITROGEN (AS N)	1 EVERY 3 MONTHS	GRAB	MONITORING WELL #8 LAND APPLICATION AREA D
004	SOLIDS, TOTAL DISSOLVED	1 EVERY 3 MONTHS	GRAB	MONITORING WELL #8 LAND APPLICATION AREA D
004	COLIFORM, FECAL	1 EVERY 3 MONTHS	GRAB	MONITORING WELL #10 LAND APPLICATION AREA D
004	NITRATE NITROGEN (AS N)	1 EVERY 3 MONTHS	GRAB	MONITORING WELL #10 LAND APPLICATION AREA D
004	SOLIDS, TOTAL DISSOLVED	1 EVERY 3 MONTHS	GRAB	MONITORING WELL #10 LAND APPLICATION AREA D
004	FLOW (VOLUME LAND APPLIED)	7/WEEK OR DAILY	24 HOUR TOTAL	WASTEWATER APPLIED TO IRRIGATION AREA D
004	NITROGEN, TOTAL (AS N)	7/WEEK OR DAILY	CALCULATED	YEAR TO DATE TOTAL POUNDS PER ACRE APPLIED TO IRRIGATION AREA D



Facility Name: SUNRISE FARMS  
NPDES Permit Number: 7200802

Page 7

**OPERATIONAL CONDITIONS AND REQUIREMENTS FOR THE LAND APPLICATION  
SYSTEM FOR DISPOSAL OF WASTEWATER**

**DESCRIPTION**

Wastewater from an egg breaking operation is treated and held in a five-cell lagoon system prior to disposal by land application using center pivot irrigation onto approximately 519 acres in the E ½ of Section 33, T99N, R39W, and the center of the SE ¼ of Section 27, T99N, R39W, Osceola County, Iowa. No discharge to a water of the State of Iowa from the industrial wastewater lagoons or land application sites is permitted.

The permittee is authorized to operate said disposal system in accordance with the conditions set forth below:

1. The permittee shall report to this department any direct discharge of wastewater into a watercourse from the land application operations. Such notification shall be given by telephone call to our Spencer office (712-262-4177) within six (6) hours of the discharge occurrence. In addition, the permittee shall provide to this department the following information, in writing, within five (5) days of such discharge.
  - a) A description of the cause of discharge.
  - b) The period of discharge, including the exact dates and time of discharge. If the discharge has not ceased, notification shall include the anticipated duration of the discharge.
  - c) The estimated volume of water that was discharged.
  - d) The steps being taken to reduce, eliminate, and prevent recurrence of the discharge.
2. No sanitary wastes shall be stored in the industrial wastewater lagoons or land applied on any areas authorized by this permit.
3. *Approved Land Application Areas*

You are authorized to land apply wastewater to the following sites:

Area B consists of 246.8 acres centered in the SE ¼ of Section 27, T99N, R39W, Osceola County, Iowa (see Appendix A for a detailed map). The facility is authorized for surface application of wastewater utilizing a center pivot irrigation system at a rate of no more than 0.2 inch per hour (5,430 gallons per acre) per application.

Area C consists of 125.7 acres located in the SE ¼ of Section 33, T99N, R39W, Osceola County, Iowa (see Appendix A for a detailed map). The facility is authorized for surface application of wastewater utilizing a center pivot irrigation system at a rate of no more than 0.2 inch per hour (5,430 gallons per acre) per application.

Area D consists of 146.5 acres located in the NE ¼ of Section 33, T99N, R39W, Osceola County, Iowa (see Appendix A for a detailed map). The facility is authorized for surface application of wastewater utilizing a center pivot irrigation system at a rate of no more than 0.2 inch per hour (5,430 gallons per acre) per application.

Facility Name: SUNRISE FARMS  
NPDES Permit Number: 7200802

Page 8

4. *Operational Conditions:*

- a) Wastewater must be held in the industrial wastewater lagoons prior to being land applied. This permit prohibits bypassing the lagoons and directly applying wastewater onto the approved land application areas.
- b) No wastewater generated off-site may be accepted for disposal.
- c) A minimum of 2 feet of freeboard shall be maintained in the final industrial lagoon storage cell at all times.
- d) Wastewater shall not be applied within 300 feet of dwellings or public use areas (not including public roads).
- e) Wastewater shall not be applied within 50 feet of the property lines of an application field.
- f) Wastewater shall not be applied within 400 feet of potable water supply wells not located on the application field.
- g) Wastewater shall not be applied within 300 feet of a continuous flowing stream or any physiographic feature that may provide direct connection to the groundwater.
- h) Wastewater shall not be applied within 1000 feet of a shallow public well.
- i) Wastewater shall not be applied within 500 feet of a public lake or impoundment.
- j) Wastewater shall not be applied within a half mile of a public lake or impoundment used as a source of water by a potable water supply.
- k) Careful operation of the irrigation system shall be practiced to assure that there will be no ponding of the applied wastewater.
- l) Wastewater shall not be applied to flooded areas until the ground has sufficient time to dry.
- m) Land application of wastewater is not allowed during periods of ground frost.
- n) Land application of wastewater is not allowed while it is raining.
- o) Land application of wastewater shall be stopped if runoff occurs.
- p) The wastewater application rate shall not exceed 0.2 inch per hour (5,430 gallons per acre) per application in Area B, Area C, and Area D.
- q) If rainfall occurs, the amount of rainfall shall be subtracted from the allowable wastewater application rate listed in item "p" above.
- r) The total annual application of nitrogen from all sources (including any application of commercial fertilizer or animal wastes) shall not exceed the crop uptake rate.
- s) The grass or crops on the land application area shall be harvested and removed so the nutrient requirement is not exceeded.

Facility Name: SUNRISE FARMS  
NPDES Permit Number: 7200802

Page 9

- t) If wastewater is spray irrigated, the spraying shall be limited to daylight hours when winds are 15 mph or less.
- u) The disposal area shall be posted along public roads and public use areas. A minimum of one sign shall be placed on each side of each disposal area. The perimeter distance between any two signs shall not exceed 500 feet. Each sign shall clearly identify the nature of the facility and advise against trespassing in letters not less than 2 inches high. Signs shall be posted at least one week prior to disposal and remain posted for a least one week after disposal.
- v) Wastewater shall not be applied to a slope greater than 5%.
- w) The wetted disposal area shall have a soil mantle of at least 5 feet overlaying any sand or gravel strata.

#### 5. *Monitoring and Reporting*

You must monitor and report the results of all monitoring as specified in this permit.

#### Definition of Terms

The term *Total Nitrogen* means the sum of the measured values of Total Kjeldahl Nitrogen plus Nitrate Nitrogen plus Nitrite Nitrogen.

The term *Flow (Volume Land Applied)* means the total volume of wastewater applied to any individual land application area during a calendar year.

#### Sampling Procedures for Monitoring Wells

- a) Measure depth from top of well head casing to water table.
- b) Calculate quantity of water to be flushed from the well using the formula:

$$\text{Gallons to pump} = 0.221d^2h$$

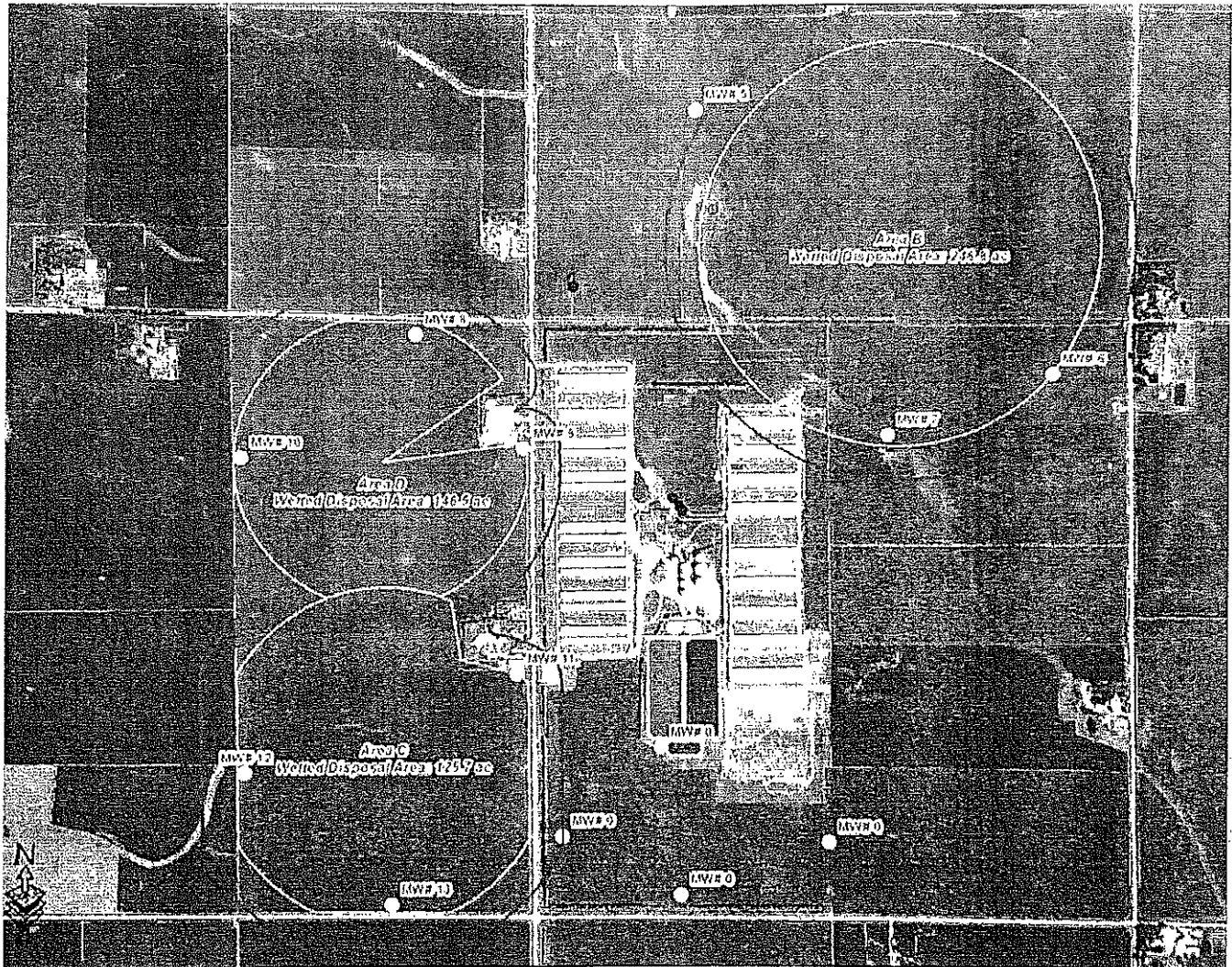
where: d = well diameter in inches

h = depth in feet of standing water in well prior to pumping

- c) Pump well.
- d) Measure depth from well head casing to water table after pumping.
- e) Wait for well to recharge to or near static water level prior to sampling



APPENDIX A: APPROVED LAND APPLICATION SITE MAP





## STANDARD CONDITIONS

## 1. ADMINISTRATIVE RULES

Rules of this Department that govern the operation of your facility in connection with this permit are published in Part 567 of the Iowa Administrative Code (IAC) in Chapters 60-65, 67 and 121. Reference to the term "rule" in this permit means the designated provision of Part 567 of the IAC.

## 2. DEFINITIONS

- (a) 7 day average means the sum of the total daily discharges by mass, volume or concentration during a 7 consecutive day period, divided by the total number of days during the period that measurements were made. Four 7 consecutive day periods shall be used each month to calculate the 7-day average. The first 7-day period shall begin with the first day of the month.
- (b) 30 day average means the sum of the total daily discharges by mass, volume or concentration during a calendar month, divided by the total number of days during the month that measurements were made.
- (c) daily maximum means the total discharge by mass, volume or concentration during a twenty-four hour period.

## 3. DUTY TO COMPLY

You must comply with all conditions of this permit. Any permit noncompliance is grounds for enforcement action; permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. Issuance of this permit does not relieve you of the responsibility to comply with all local, state and federal laws, ordinances, regulations or other legal requirements applying to the operation of your facility. *{See 567 IAC 64.7(4)"e"}*

## 4. DUTY TO REAPPLY

If you wish to continue to discharge after the expiration date of this permit, you must file a complete application for reissuance at least 180 days prior to the expiration date of this permit. *{See 567 IAC 64.8(1)}*

## 5. NEED TO HALT OR REDUCE ACTIVITY

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit. *{See 567 IAC 64.7(5)"j"}*

## 6. DUTY TO MITIGATE

You shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment. *{See 567 IAC 64.7(5)"i"}*

## 7. PROPERTY RIGHTS

This permit does not convey any property rights of any sort or any exclusive privilege. *{See 567 IAC 64.4(3)"b"}*

## 8. SIGNATORY REQUIREMENTS

Applications, reports or other information submitted to the Department in connection with this permit must be signed and certified as required by 567 IAC 64.3(8).

## 9. EFFECT OF A PERMIT

Compliance with a permit during its term constitutes compliance, for purposes of enforcement, with the limitations and standards set out in 567 IAC Chapters 61 and 62. *{See 567 IAC 64.4(3)"a"}*

## 10. TRANSFER OF TITLE OR OWNER ADDRESS CHANGE

If title to your facility, or any part of it, is transferred the new owner shall be subject to this permit. You are required to notify the new owner of the requirements of this permit in writing prior to any transfer of title. The Director shall be notified in writing within 30 days of the transfer. No transfer of the authorization to discharge from the facility represented by the permit shall take place prior to notifying the department of the transfer of title. Whenever the address of the owner is changed, the department shall be notified in writing within 30 days of the address change. Electronic notification is not sufficient; all title transfers or address changes must be reported to the department by mail. *{See 567 IAC 64.14}*

## 11. PROPER OPERATION AND MAINTENANCE

All facilities and control systems shall be operated as efficiently as possible and maintained in good working order. A sufficient number of staff, adequately trained and knowledgeable in the operation of your facility shall be retained at all times and adequate laboratory controls and appropriate quality assurance procedures shall be provided to maintain compliance with the conditions of this permit. *{See 567 IAC 64.7(5)"f"}*

## 12. DUTY TO PROVIDE INFORMATION

You must furnish to the Director, within a reasonable time, any information the Director may request to determine compliance with this permit or determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, in accordance with 567 IAC 64.3(11)(c). You must also furnish to the Director, upon request, copies of any records required to be kept by this permit.

## 13. PERMIT MODIFICATION, SUSPENSION OR REVOCATION

- (a) This permit may be modified, suspended, or revoked and reissued for cause including but not limited to those specified in 567 IAC 64.3(11).
- (b) This permit may be modified due to conditions or information on which this permit is based, including any new standard the department may adopt that would change the required effluent limits. *{See 567 IAC 64.3(11)}*
- (c) If a toxic pollutant is present in your discharge and more stringent standards for toxic pollutants are established under Section 307(a) of the Clean Water Act, this permit will be modified in accordance with the new standards. *{See 567 IAC 64.7(5)"g"}*

The filing of a request for a permit modification, revocation or suspension, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

## 14. SEVERABILITY

The provisions of this permit are severable and if any provision or application of any provision to any circumstance is found to be invalid by this department or a court of law, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected by such finding.

## 15. FAILURE TO SUBMIT FEES

This permit may be revoked, in whole or in part, if the appropriate permit fees are not submitted within thirty (30) days of the date of notification that such fees are due. *{See 567 IAC 64.16(1)}*

## STANDARD CONDITIONS

**16. REPORTING A DISCHARGE (TWENTY-FOUR HOUR REPORTING)**

You shall report any noncompliance that may endanger human health or the environment, including, but not limited to, violations of maximum daily limits for any toxic pollutant or hazardous substance. Information shall be provided orally within 24 hours from the time you become aware of the circumstances. A written submission including a description of noncompliance and its cause; the period of noncompliance including exact dates and times, whether the noncompliance has been corrected or the anticipated time it is expected to continue; and the steps taken or planned to reduce, eliminate, and prevent a reoccurrence of the noncompliance must be provided within 5 days of the occurrence.

*{See 567 IAC 63.12}*

**17. OTHER NONCOMPLIANCE**

You shall report all instances of noncompliance not reported under Condition #13 at the time monitoring reports are submitted. You shall give advance notice to the appropriate regional field office of the department of any planned activity which may result in noncompliance with permit requirements.

*{See 567 IAC 63.14}*

**18. PLANNED CHANGES**

The permittee shall give notice to the appropriate regional field office of the department 30 days prior to any planned physical alterations or additions to the permitted facility. Notice is required only when:

- (a) Notice has not been given to any other section of the department: (Note: Facility expansions, production increases or process modifications which may result in new or increased discharges of pollutants must be reported to the Director in advance. If such discharges will exceed effluent limitations, your report must include an application for a new permit. If any modification of, addition to, or construction of a disposal system is to be made, you must first obtain a written permit from this Department.) *{See 567 IAC 64.7(5) "a" and 64.2}*
- (b) The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source as defined in 567—60.2(455B);
- (c) The alteration or addition results in a significant change in the permittee's sludge use or disposal practices; or
- (d) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants that are not subject to effluent limitations in the permit.

*{See 567 IAC 63.13 and 63.14}*

**19. NOTICE OF CHANGED CONDITIONS**

You are required to notify the director of any changes in existing conditions or information on which this permit is based. This includes, but is not limited to, the following:

- (a) If your facility is a publicly owned treatment works (POTW) or otherwise may accept waste for treatment from an indirect discharger or industrial contributor (see 567 IAC 64.3(5) for further notice requirements).
- (b) If your facility is a POTW and there is any substantial change in the volume or character of pollutants being introduced by a source introducing pollutants into the POTW at the time of issuance of the permit.

- (c) As soon as you know or have reason to believe that any activity has occurred or will occur which would result in the discharge of any toxic pollutant which is not limited in this permit.
- (d) If you have begun or will begin to use or manufacture as an intermediate or final product or byproduct any toxic pollutant which was not reported in the permit application.
- (e) No construction activity that will result in disturbance of one acre or more shall be initiated without first obtaining coverage under NPDES General Permit No. 2 for "Storm water discharge associated with construction activity".

**20. MONITORING AND RECORDS OF OPERATION**

- (a) Maintenance of records. You shall retain for a minimum of three years all paper and electronic records of monitoring activities and results including all original strip chart recordings for continuous monitoring instrumentation and calibration and maintenance records. *{See 567 IAC 63.2(3)}*
- (b) Any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000 or by imprisonment for not more than two years, or both.

**21. USE OF CERTIFIED LABORATORIES**

Effective October 1, 1996, analyses of wastewater, groundwater or sewage sludge that are required to be submitted to the department as a result of this permit must be performed by a laboratory certified by the State of Iowa. Routine, on-site monitoring for pH, temperature, dissolved oxygen, total residual chlorine and other pollutants that must be analyzed immediately upon sample collection, settleable solids, physical measurements, and operational monitoring tests specified in 567 IAC 63.3(4) are excluded from this requirement.

**22. INSPECTION OF PREMISES, RECORDS, EQUIPMENT, METHODS AND DISCHARGES**

You are required to permit authorized personnel to:

- (a) Enter upon the premises where a regulated facility or activity is located or conducted or where records are kept under conditions of this permit.
- (b) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit.
- (c) Inspect, at reasonable times, any facilities, equipment, practices or operations regulated or required under this permit.
- (d) Sample or monitor, at reasonable times, to assure compliance.

**23. OTHER INFORMATION**

Where you become aware that you failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application, you must promptly submit such facts or information. Where you become aware that you failed to submit any relevant facts in the submission of in any report to the director, including records of operation, you shall promptly submit such facts or information.

*{See 567 IAC 60.4(2) "a" and 567 IAC 63.7}*

